

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 29, 2019

Jordan Burns
Vice President - Legal
Ferrellgas
One Liberty Plaza
Liberty, MO 64068

CPF 3-2019-0001

Dear Mr. Burns:

On August 7-9, 2018, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your liquid propane gas distribution facilities in northern Wisconsin.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violation(s) are:

1. §192.285 Plastic pipe: Qualifying persons to make joints

(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

(c) A person must be re-qualified under an applicable procedure once each calendar year at intervals not exceeding 15 months, or after any production joint is found unacceptable by testing under §192.513.

Ferrellgas did not re-qualify one person in 2015 under the applicable plastic joint procedure once each calendar year at intervals not exceeding 15 months. The individual made pipe joints in 2015, but had not been qualified by making specimen joints for inspection and testing as required by the regulation and their procedures.

2. §192.513 Test requirements for plastic pipelines.

(a) Each segment of a plastic pipeline must be tested in accordance with this section.

(c) The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §192.121, at a temperature not less than the pipe temperature during the test.

Ferrillgas did not test its plastic pipelines to at least a pressure of 50 psig. Ferrellgas installed three (3) plastic service lines in 2017 and 2018 which were not pressure tested to at least 50 psig. The service locations, dates and pressures are:

Address	Date	Test Pressure (psig)
7219 W. Courtland Circle, Egg Harbor, WI	5-5-2017	28
7192 Ida Red Rd., Egg Harbor, WI	7-19-2018	24
7300 McIntosh Way, Egg Harbor, WI	8-28-2017	24

3. §192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once

each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Ferrellgas did not conduct annual reviews of its written procedures. Ferrellgas personnel informed PHMSA that it had not conducted annual reviews of its written procedures for the last two years.

4. §192.605 Procedural manual for operations, maintenance, and emergencies.

(a)

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

Ferrellgas did not periodically review the work done by operator personnel to determine the effectiveness and adequacy of the procedures in normal operations and maintenance. Ferrellgas informed PHMSA that these effectiveness reviews had not been conducted for the last two year.

5. §192.619 Maximum allowable operating pressure: Steel or plastic pipelines

a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following:

(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of this part. However, for steel pipe in pipelines being converted under §192.14 or uprated under subpart K of this part, if any variable necessary to determine the design pressure under the design formula (§192.105) is unknown, one of the following pressures is to be used as design pressure:

Ferrellgas did not determine its maximum allowable operating pressure (MAOP) to be the design pressure of the weakest element of the segment. Ferrellgas stated that its MAOP in each system was 30 psig, but the PHMSA inspector found house service regulators having a maximum inlet pressure limit of 10 psig. This would restrict the MAOP to not be above 10 psig.

6. **§192.603 General provisions.**

(a)

(b) Each operator shall keep records necessary to administer the procedures established under §192.605.

§192.605 Procedural manual for operations, maintenance, and emergencies.

(a) . . .

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

§192.741 Pressure limiting and regulating stations: Telemetering or recording gauges.

(a) Each distribution system supplied by more than one district pressure regulating station must be equipped with telemetering or recording pressure gauges to indicate the gas pressure in the district.

Ferrellgas did not keep records of recording pressure gauges for two multiple feed systems. The monthly pressure recording charts for the Horse Shoe Bay distribution system were not kept for August of 2016, October and February of 2017, and June of 2018. The same records for Heritage Lake distribution system were not kept for August and October of 2016, February, April, May, and June of 2017, and March of 2018.

7. **§192.743 Pressure limiting and regulating stations: Capacity of relief devices.**

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §192.739(b), the capacity must be consistent with the pressure limits of §192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

(b) If review and calculations are used to determine if a device has sufficient capacity, the calculated capacity must be compared with the rated or experimentally determined relieving capacity of the device for the conditions under which it operates. After the initial calculations, subsequent calculations need not be made if the annual review documents that parameters have not changed to cause the rated or experimentally determined relieving capacity to be insufficient.

Ferrellgas did not determine pressure relief capacity at intervals not exceeding 15 months, but at least each calendar year, by testing the devices in place or by review and calculations of the capacity of its regulator station relief devices. None of Ferrellgas' nine (9) regulator stations had been tested in place or calculated capacities reviewed to determine if the relieving capacities were sufficient. Ferrellgas had no capacity design sheets for its regulator stations to even review.

8. §192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a)

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

Ferrellgas did not ensure through evaluation that individuals performing covered tasks are qualified. The operator 2015 qualification records for one individual who performed 19 covered tasks had none of the proficiency (performance) evaluations completed, but all the written tests had been completed. The individual performed these tasks multiple times during the period from 2015 to 2018. His records for 2018 for all qualifications were complete. This individual was in charge of qualifying most of the staff.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$19,600 as for Item 2.

Warning Items

With respect to item(s) 1, 3, 4, 6 and 8, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to item 5 and 7 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Ferrellgas. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2019-0001** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Allan C. Beshore
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to FerrellGas a Compliance Order incorporating the following remedial requirements to ensure the compliance of Ferrellgas with the pipeline safety regulations:

1. In regard to Item Number 5 of the Notice pertaining to determining pipeline maximum allowable operating pressure (MAOP), Ferrellgas must evaluate its pipelines and determine the MAOP according to §192.619 and document its findings for each of its systems.
2. In regard to Item Number 7 of the Notice pertaining capacity of relief valves at regulator stations, Ferrellgas must determine if the relieving capacity is sufficient by testing the devices in place or by capacity calculations of each station.
3. Within 90 days after receipt of the Final Order FerrellGas must have completed Items 1 and 2 of the compliance order and sent the appropriate documentation to Allan Beshore, Director, Central Region, OPS.
4. It is requested (not mandated) that Ferrellgas maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan C. Beshore, Director, Central Region, OPS, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.